

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, ET AL.,
Plaintiffs,

v.

BRAD RAFFENSPERGER, ET AL.,

Defendants.

Civil Action No. 1:17-CV-2989-AT

**COALITION PLAINTIFFS' NOTICE OF FILING DISCOVERY AND
ADDITIONAL BRIEFING ON RELEVANCE**

Coalition Plaintiffs file this Notice for two reasons. First, Coalition Plaintiffs files as Exhibit 1 the attached discovery that was the subject of the Court's hearing today. The attachment is the State's Objections to Coalition Plaintiffs' 4th Request for Production of Documents, which also shows the Coalition Plaintiffs' requests themselves.

Second, Coalition Plaintiffs respond to the State's repeated statement that the subject matter of this discovery was dismissed by the Court when it dismissed Count III of Coalition Plaintiffs' Supplemental Complaint. To the contrary: The Coalition Plaintiffs' First Supplemental Complaint (the "FSC," Doc. 628) mounts an "as-applied" challenge to Georgia's implementation of the "Dominion BMD System," which is expressly defined to encompass all components of the system—

listed in the FSC as the election management software, adjudication software, ballot marking devices and firmware, precinct scanners and firmware, and central-count scanners and firmware, (*Id.* at 23, ¶ 67), and subsequently expanded as a result of the State's own definition and certification of the electronic pollbooks as part of the voting system during the pendency of this litigation.

The FSC alleges that the State Defendants' intended use of the "Dominion BMD System" in upcoming elections will cause imminent violations of the fundamental right to vote, (Count I, Doc. 628, at 67–69), and of the Fourteenth Amendment's guarantee of equal protection, (Count II, *id.* at 70–72.)¹

Respectfully submitted this 21st day of August, 2020.

/s/ Bruce P. Brown
Bruce P. Brown
Georgia Bar No. 064460
BRUCE P. BROWN LAW LLC
1123 Zonolite Rd. NE
Suite 6
Atlanta, Georgia 30306
(404) 881-0700

/s/ Robert A. McGuire, III
Robert A. McGuire, III
Admitted Pro Hac Vice
(ECF No. 125)
ROBERT MC GUIRE LAW FIRM
113 Cherry St. #86685
Seattle, Washington 98104-2205
(253) 267-8530

¹ Coalition Plaintiffs also allege that the Dominion BMD System violates the right to procedural due process, (Count III, Doc. 628, at 72–74), but this Court dismissed Count III without prejudice. (Doc. 751, at 45–51.) The FSC also contains numerous other material allegations that are not pertinent to this Motion.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, ET AL.,
Plaintiffs,

v.

BRAD RAFFENSPERGER, ET AL.,
Defendants.

Civil Action No. 1:17-CV-2989-AT

CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Bruce P. Brown
Bruce P. Brown

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER , ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2020, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Bruce P. Brown
Bruce P. Brown

E
X
H
I
B
I
T

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al.,)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE
vs.)	
)	
BRAD RAFFENSPERGER, et)	NO. 1:17-cv-2989-AT
al.,)	
)	
Defendant.)	

**STATE DEFENDANTS' OBJECTIONS AND RESPONSES TO
COALITION PLAINTIFFS' FOURTH REQUEST FOR PRODUCTION
OF DOCUMENTS**

COME NOW Defendants Brad Raffensperger, David J. Worley, Rebecca N. Sullivan, Anh Le, and Matthew Mashburn (collectively, the “State Defendants”), in their official capacities by and through their counsel of record and respond to Plaintiff Coalition for Good Governance’s (“Coalition Plaintiffs” or “Plaintiffs”) Fourth Request for Production of Documents as follows:

RESPONSES TO REQUESTS

Request for Production No. 1:

All documents relating to software updates or changes to the Election System during 2020, including but not limited to documents reflecting system

or component certification, testing reports, studies, findings, evaluations, or system documentation.

Response: State Defendants object to this Request as it seeks documents that may contain confidential information, trade secrets, sensitive election security information, and/or state secrets. State Defendants will not provide any documents which contain confidential information, trade secrets, sensitive election security information, and/or state secrets, except pursuant to an appropriate protective order. State Defendants further object to this Request as it is unduly burdensome, vague, and overly broad because (1) it requires an extensive search for documents while election officials are conducting elections; (2) there is no pending preliminary injunction motion and it is too late for any further relief to be ordered for the November 2020 elections, see *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020); *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per curiam); and (3) it requests documents that are unrelated to the claims and defenses in this case because none of the operative Complaints challenge the ballot scanners or PollPad check-in units. Defendants further object to the Request to the extent it seeks documents subject to attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing objections, State Defendants will produce non-privileged documents responsive to and within the non-objectionable scope of this Request that are located following a reasonable search.

Request for Production No. 2:

All documents (a) relating to Dominion Voting System vote mark threshold setting standards adopted by any other state, or adopted or recommended by any government agency; b) constituting or reflecting communications about said threshold settings with (i) county officials in Athens-Clarke, Morgan or Fulton Counties or (ii) Dominion Voting Systems.

Response: State Defendants object to this Request as it seeks documents that may contain confidential information, trade secrets, sensitive election security information, and/or state secrets. State Defendants will not provide any documents which contain confidential information, trade secrets, sensitive election security information, and/or state secrets, except pursuant to an appropriate protective order. State Defendants further object to this Request as it is unduly burdensome, vague, and overly broad because (1) it requires an extensive search for documents while election officials are conducting elections; (2) there is no pending preliminary-injunction motion and it is too late for any further relief to be ordered for the November 2020

elections, see *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020); *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per curiam); and (3) it requests documents that are unrelated to the claims and defenses in this case because none of the operative Complaints challenge ballot scanners or threshold settings. Defendants further object to the Request to the extent it seeks documents subject to attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing objections, State Defendants will produce non-privileged documents responsive to and within the non-objectionable scope of this Request that are located following a reasonable search.

Request for Production No. 3:

Communications with county election officials and vendors concerning how the Dominion Voting System can or should be used to protect ballot secrecy and voter privacy.

Response: State Defendants object to this Request as it seeks documents that may contain confidential information, trade secrets, sensitive election security information, and/or state secrets. State Defendants will not provide any documents which contain confidential information, trade secrets, sensitive election security information, and/or state secrets, except pursuant

to an appropriate protective order. State Defendants further object to this Request as it is unduly burdensome, vague, and overly broad because (1) it requires an extensive search for documents while election officials are conducting elections; (2) it does not define what “ballot secrecy” and “voter privacy” are in the context of the request; (3) there is no pending preliminary-injunction motion and it is too late for any further relief to be ordered for the November 2020 elections, see *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020); *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per curiam); and (4) it requests documents that are unrelated to the claims and defenses in this case because Count III of Coalition Plaintiffs’ Supplemental Complaint has been dismissed [Doc. 751, pp. 50-51]. State Defendants further object to the Request to the extent it seeks documents subject to attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing objections, State Defendants will produce non-privileged documents responsive to and within the non-objectionable scope of this Request that are located following a reasonable search.

This 18th day of August, 2020

**Robbins Ross Alloy Belinfante Littlefield
LLC**

Vincent R. Russo
Georgia Bar No.: 242628
vrusso@robbinsfirm.com
Joshua B. Belinfante
Georgia Bar No.: 047399
jbelinfante@robbinsfirm.com
Alexander F. Denton
Georgia Bar No.: 660632
adenton@robbinsfirm.com
Carey Miller
Georgia Bar No.: 976240
cmiller@robbinsfirm.com
500 14th Street, N.W.
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

TAYLOR ENGLISH DUMA LLP

/s/ Jonathan D. Crumly
Bryan P. Tyson
GA Bar No. 515411
btyson@taylorenglish.com
Jonathan D. Crumly
Georgia Bar No. 199466
jcrumly@taylorenglish.com
Diane Festin LaRoss
Georgia Bar No. 430830
dlaross@taylorenglish.com
James A. Balli
Georgia Bar No. 035828
jballi@taylorenglish.com
Bryan F. Jacoutot

Georgia Bar No. 668272
bjacoutot@taylorenglish.com
Loree Anne Paradise
lparadise@taylorenglish.com
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339
Telephone: 770.434.6868

Attorneys for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this day, I served a true and correct copy of the foregoing **STATE DEFENDANTS' OBJECTIONS AND RESPONSES TO COALITION PLAINTIFFS' FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS** on all counsel of record by electronic mail delivery as follows:

Cary Ichter
Ichter Davis LLC
Suite 1530
3340 Peachtree Road N.E. Atlanta,
Georgia 30326
cichter@ichterdavis.com

Bruce P. Brown
BRUCE P. BROWN LAW LLC 1123
Zonolite Road, Suite 6 Atlanta,
Georgia 30306
bbrown@brucepbrownlaw.com

David D. Cross
John P. Carlin
Lyle F. Hedgecock
Mary G. Kaiser
Morrison & Foerster, LLP 2000
Pennsylvania Avenue, NW
Washington, DC 20006
dcross@mofo.com
jcarlin@mofo.com
lhedgecock@mofo.com
mkaiser@mofo.com

John Michael Powers
David R. Brody
Ezra David Rosenberg
Lawyers' Committee for Civil
Rights Under Law
Suite 900
1500 K Street, N.W.
Washington, DC 20005
jpowers@lawyerscommittee.org
dbrody@lawyerscommittee.org
erosenberg@lawyerscommittee.org

Kaye Burwell
David Lowman
Cheryl Ringer
Fulton County Attorney's Office
141 Pryor Street, Suite 4038
Atlanta, Georgia 30303

Robert Alexander McGuire
Robert McGuire Law Firm
113 Cherry Street #86685
Seattle, WA 98104-2206
ram@lawram.com

kaye.burwell@fultoncountyga.gov
david.lowman@fultoncountyga.gov
cheryl.ringer@fultoncountyga.gov

Halsey G. Knapp, Jr.
Adam Martin Sparks
Grant Edward Schnell
Krevolin & Horst, LLC
One Atlantic Center, Suite 3250
1201 West Peachtree Street, NW
Atlanta, GA 30309
hknapp@khlawfirm.com
sparks@khlawfirm.com
grant.schnell@hklaw.com

This 18th day of August, 2020.

/s/ Jonathan D. Crumly
Jonathan D. Crumly
Georgia Bar No.: 199466